

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PLINTRON TECHNOLOGIES USA
LLC,

Plaintiff,

v.

JOSEPH PHILLIPS, RICHARD
PELLY, THOMAS MATHEW, GREG
MCKERVEY, and DESIREE
MICHELLE GRAY,

Defendants.

CASE NO. 2:24-cv-00093

ORDER GRANTING MOTION TO
CONTINUE

JOSEPH PHILLIPS,

Counterclaim Plaintiff,

v.

PLINTRON TECHNOLOGIES USA
LLC, et al.

Counterclaim Defendants.

INTRODUCTION

This matter comes before the Court on Plaintiff and Counterclaim Defendant Plintron Technologies USA LLC and Counterclaim Defendants Mohan Kumar Sundaram, Subhashree Radhakrishnan, Plintron Holdings PTE LTD, and Plintron Mobility Solutions PVT LTD.’s Motion to Continue Trial Date and Extend Pretrial Deadlines (Dkt. No. 190). Having reviewed the Motion, Defendants Richard Pelly, Thomas Mathew, Greg McKerverey, Desiree Michelle Gray, and Defendant/Counterclaim Plaintiff Joseph Phillips’ Opposition (Dkt. No. 195), the Reply (Dkt. No. 203), the Surreply (Dkt. No. 205), the relevant record, and all other supporting materials, the Court GRANTS the Motion.

BACKGROUND

The underlying dispute concerns allegations that Defendants, all of whom are former employees of Plaintiff, misappropriated their employer’s funds, resources, and proprietary information to create two competing companies. (See First Amended Complaint (Dkt. No. 189) ¶¶ 1–11.) Defendant Phillips, the former CEO of Plintron USA, responded with a counterclaim against his former employer alleging that the company had withheld money and other benefits owed to him under his employment contract. (See generally Phillips’ Answer and Counterclaim (Dkt. No. 48).)

Trial in this case was originally set for July 14, 2025. (See Dkt. No. 62.) Defendants moved for—and received—a five-to-six month continuance of all pretrial deadlines and the trial date was rescheduled for December 1, 2025. (Dkt. No. 111.) Two months after the first continuance, Phillips was granted leave to amend his counterclaims and added six new counterclaim defendants—including Sundaram, Radhakrishnan, Plintron Holdings, and Plintron Mobility—and four new causes of action to his counterclaims. (Dkt. Nos. 156, 157.)

1 The Counterclaim Defendants now seek a five-month continuance of the trial date and
2 pretrial deadlines. (Mot. at 5.) They assert that an extension is necessary to provide Plintron and
3 the remaining Counterclaim Defendants “at least some chance” to promulgate discovery, identify
4 and produce experts, and otherwise address Phillips’ added counterclaims. (Mot. at 5.)
5 Additionally, they state that an extension would allow for resolution of the Counterclaim
6 Defendants’ pending Motion to Dismiss before being otherwise subjected to the expense and
7 burden of litigation. (Id.) Phillips and the Defendants disagree on the basis that the amended
8 counterclaims have not so altered the case as prejudice the added parties and further say that an
9 extension would result in prejudice to Phillips, “whose business interests are losing customers
10 and investors who are standing on the sideline until this lawsuit reaches resolution.” (Opp. at 15.)

11 While the Motion was pending review, the Parties stipulated to the dismissal of
12 Counterclaim Defendants Hem Senthil Raj and Murali Krishna Posa and of three of the new
13 counterclaims added by Phillips’ amendment. (See Dkt. No. 208.)

14 ANALYSIS

15 Rule 16 provides that a scheduling order “may be modified only for good cause and with
16 the judge’s consent.” Fed. R. Civ. P. 16(b)(4); Local Rule 16(b)(6). “Rule 16(b)’s ‘good cause’
17 standard primarily considers the diligence of the party seeking the amendment.” Johnson v.
18 Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). “The district court may modify
19 the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the party seeking the
20 extension.’” Id. (citing Fed. R. Civ. P. 16 advisory committee’s notes (1983 amendment)). “Mere
21 failure to complete discovery within the time allowed does not constitute good cause for an
22 extension or continuance.” Local Rule 16(b)(6). “If [the] party [seeking the extension] was not
23 diligent, the inquiry should end.” Johnson, 975 F.2d at 609.

1 The Court finds good cause to continue the trial date and interim case deadlines, as
2 requested by Plaintiff/Counterclaim Defendant Plintron and the remaining Counterclaim
3 Defendants. First, the Court agrees that the newly added Counterclaim Defendants must be
4 afforded some time to prepare their defense and address the allegations only recently brought
5 against them by Phillips. Despite Phillips’ claims that these Defendants have been “involved in
6 the litigation since the beginning,” that involvement was limited. (See Opp. at 13.) It was only
7 upon Phillips’ amendment that they themselves were exposed to legal liability in this matter and
8 able to use legal procedures otherwise reserved for named litigants. For example, prior to
9 Phillips’ amendment, the Counterclaim Defendants were subject to discovery requests made by
10 Phillips, but unable to employ their own such efforts to independently discover the basis of
11 Phillips’ claims as to the individual Counterclaim Defendants. (Id. at 13.) Without a continuance
12 of this matter, those Counterclaim Defendants will lose this opportunity and the procedural
13 protections afforded them under the Federal Rules of Civil Procedure.

14 Second, any prejudice suffered by Phillips due to a continuance would be largely self-
15 inflicted. It was his decision to seek amendment of his counterclaims nearly a year after they
16 were first filed. It was his decision to include multiple new counterclaim defendants—both
17 individuals and corporations—and multiple new causes of action. Because Phillips’ complaints
18 about the delayed resolution of this lawsuit run contrary to his actions, the Court does not find
19 Phillips’ prejudice argument to be persuasive.

20 Accordingly, the Court will grant the Motion but does so with a pair of reservations.
21 First, due to the time passed since this case was originally filed, the Court is unlikely to grant any
22 further continuances in this case. Second, although the extension will effectively reopen
23 discovery and the possibility of discovery motion practice, the Court’s February 21, 2025, Order
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on Further Discovery Motion Procedure remains in effect. (Dkt. No. 146.) Any new discovery motions brought by the Parties—including those brought by the added Counterclaim Defendants—must continue to follow the expedited joint motion procedures set forth in LCR 37(a).

CONCLUSION

Having found good cause to do so, the Court GRANTS the Motion, and sets the following new trial date and interim deadlines:

Deadline	Existing Deadline	New Deadline
JURY TRIAL DATE	December 1, 2025, at 9:00 AM	May 4, 2026, at 9:00 AM
Reports from expert witness under FRCP 26(a)(2) due	May 5, 2025	October 6, 2025
All motions related to discovery must be filed and noted on the motion calendar in compliance with Local Civil Rule (LCR) 7(d)	June 4, 2025	November 3, 2025
Discovery completed by	July 7, 2025	December 8, 2025
All dispositive motions must be filed by and noted on the motion calendar in compliance with LCR 7(d)	August 4, 2025	January 5, 2026
All motions in limine must be filed by and noted on the motion calendar in compliance with LCR 7(d)(5)	October 27, 2025	March 27, 2026
Agreed pretrial order due	November 18, 2025	April 20, 2026
Trial briefs, proposed voir dire questions, and proposed jury instructions:	November 18, 2025	April 20, 2026
Pretrial conference	November 20, 2025, at 1:30 PM	April 22, 2026, at 1:30 PM
Length of Jury Trial	8–10 Days	8–10 Days

1 The clerk is ordered to provide copies of this order to all counsel.

2 Dated July 29, 2025.

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4 Marsha J. Pechman
5 United States Senior District Judge
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